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# UNITED STATES DISTRICT COURT
# DISTRICT OF NORTH DAKOTA

☐ NE ☑ NW ☐ SE ☐ SW DIVISION

(Check the correct Division. See D.N.D. General Local Rule 1.1)

Jose Doe

(Enter full name of each Plaintiff, above)

vs.

Minot Police Department,
Chief of Police Jason T. Olson;
Sgt. Dave Goodman,
in his individual and official capacities;
Detective Thompson,
Detective Jesse Smith,

(Enter full name of each Defendant, above)

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Civil Case No. 4:14-cv-119
(To be assigned by Clerk of Court)

§ **JURY TRIAL DEMANDED** ☑ **Yes** ☐ **No**
(Check one)

## COMPLAINT

**I. JURISDICTION.** State the grounds for filing this case in Federal Court (include federal statutes or U.S. Constitutional provisions).

The district court has jurisdiction under N.D. Const. art. VI, § 8, and N.D.C.C. § 27-05-06. Under the U.S. Constitution and the laws of the U.S. and presents a federal and state question within this Court's jurisdiction under Article III of the Constitution and 28 U.S.C. § 1331 and 1343(a)(3) and 5 U.S.C. § 552a(g) (1)(D) & (g)(4). Plaintiff Doe seeks monetary damages against federal (ICE), state (BCI), city employees acting under of color of legal authority, in their individual capacities, under Bivens v. Six Unknown Agents of Fed. Bureau of Narcotics, 403 U.S. 388, 91 S. Ct. 1999, 28 L. Ed. 2d 619 (1971). The Court has the authority to grant declaratory and injunctive relief pursuant to state and federal statutes in its inherent equitable powers. Plaintiff is residing in North Dakota, and all, if not a substantial portion of defendants' unlawful acts giving rise to Plaintiff's claims occurred in Ward County.

**II. PLAINTIFF.** For each Plaintiff list: name and address including City, County and State.

Jose Doe
P.O. Box 452
Minot, ND 58702

**III. DEFENDANT.** For each Defendant list: name and address including City, County and State.

Minot Police Department,
Chief of Police Jason T. Olson;
Sgt. Dave Goodman,
in his individual and official capacities;
515 2nd Ave SW
Minot, ND 58701-3739
Detective Thompson,
in her individual and official capacities;
515 2nd Ave SW
Minot, ND 58701-3739
Detective Jesse Smith, ND (BCI)
in his individual and official capacities;
Criminal Investigation Bureau
4205 State St, Bismarck, ND 58503
An Unknown Number of Unknown
Federal (ICE) and City Minot Agents of
Law Enforcement, addresses unknown,

**IV. CLAIM.** State the facts of your claim. Include the name of each person involved, dates and places. Be as specific as possible. Do not give any legal argument or cite any cases or statutes. Use additional sheets of paper if necessary.

FACTS- additional attached

1. On May 6, 2014, Plaintiff interrupted by police at his employment of the nursing home facility in Minot, ND.
2. On May 6, 2014, Plaintiff was interrupted from work and told by managers at the nursing facility to arrive to a conference room. At the conference, Plaintiff was informed to go to a conference room and Minot Officers and Special Agent detectives were awaiting to speak and question. This notified Plaintiff's employer at the nursing home of the criminal investigation ensuing and placing Plaintiff in a bad light.
3. Detective Goodman informed this Plaintiff Doe that an investigation for computer child porn was being conducted. Next, Det. Goodman relayed that earlier the residence of Jose Garcia, at 212 18th St. N.W. Minot, ND, which included Plaintiff's room rental was seized and searched. Further, Det. Goodman stated in continuing to search and seizure of Plaintiff's computer and property for criminal child porn. Plaintiff was detained at a point beyond any reasonable understanding of the immediate vicinity, that is the residence at 212 18th St. N.W. Minot.
4. Then, Det. Goodman stated that Plaintiff may request a search warrant for the search and seizure. Though, Defendant Goodman had no evidence or facts to directly link Plaintiff to computer child porn.
5. Therefrom, Plaintiff had trouble understanding the ramifications of circumstances. However, Plaintiff requested a search warrant for my computer. And denied to speak or communicate with the Detectives' Goodman and other officers. Goodman conveyed that he may be able to obtain a search warrant and return.
6. Plaintiff was returned to work very distracted. All the while, a uniformed Patrol Officer in a

**V. ADMINISTRATIVE PROCEDURES.** If applicable, state whether your claim was heard by any administrative agencies; the type of proceedings; the date and place of any proceedings; the outcome of any administrative proceedings.

n/a

**VI. RELIEF.** State what you want the Court to do for you.

WHEREFORE, Plaintiff request that the Court:
13. Award reasonable and appropriate compensatory damages in economic and non-economic factors in the amount of $5,000 and in the amount ascertained at trial, for defendants' unlawful acts described herein above;
14. That judgment be rendered in favor of the Plaintiff and against the Defendants on all causes of action asserted herein.
15. That Plaintiffs be awarded those damages to which it may appear they are entitled by the proof submitted in this cause for his mental pain and suffering, both past and future; loss of enjoyment of life; loss of his personalty, bags, locks, and safe. In seeking housing and employment.
16. That Plaintiffs be awarded punitive damages against the Defendants.
17. That Plaintiffs be awarded reasonable expenses incurred in this litigation, including reasonable attorney and expert fees, pursuant to 42 U.S.C. §1988 (b) and (c) and N. D. Century Code.
18. A declaratory judgment regarding defendants conduct that violated Plaintiff' rights.
19. Issue a permanent injunction prohibiting defendants from further violations of Plaintiff's rights.
20. That Plaintiff be awarded in accordance to 5 U.S.C. § 552a(g)(4) to no less than $1,000.
21. That the Plaintiffs receive any other further and general relief to which it may appear they are entitled.
22. A jury for the trial of this matter.

**VII. SIGNATURE.** Each Plaintiff must individually sign this complaint.

Signed this 24 Septe day of September, 2014.

Jose Doe (signature)
Signature of Plaintiff

Jose Doe
Printed Name of Plaintiff

P.O. BOX 452
Mailing Address

MINOT, ND 58702
City, State, Zip Code

910 7876783
Telephone Number of Plaintiff

Signature of Plaintiff

Printed Name of Plaintiff

Mailing Address

City, State, Zip Code

Telephone Number of Plaintiff

**INTRODUCTION from continued FACTS complaint**

1. This action arises from the Minot Police Department, the Chief of Police and his subordinates, and Federal agents, ("collectively Defendants'") that in consequence, intentionally and negligently violated the constitutional and state rights of this Plaintiff, among others, Jose Doe, for their own and public reasons. The context for these actions of overzealous investigations was the government's and local police's official investigation into computer child porn.

2. To reach their goals, without allowing the protections of criminal justice, the Minot Police Department, his subordinates and Federal agents ("hereinafter Defendants'") intentionally and negligently stomped on Plaintiff Jose Doe's (herein "Plaintiff" Doe) constitutional and state rights and their own rules. By using a facially valid general search warrant served at Plaintiff's residence, that I am a renter of a room in a basement from a single family home. Plaintiff had a reasonable expectation of privacy from the separate room rental of a door with a **lock and key**. Therefore, Defendants' conducted an illegal search and seizure of Plaintiff's room without a particular search warrant, additionally Plaintiff was not available for the illegal search. Nonetheless, all of the other residents and renters were available for the facial search warrant. Most importantly, Defendants' did not turn up any evidence of computer child porn crime.

3. To continue in their campaigning goal, Defendants' without any evidence or facts for proper justification, they continued by arriving to Plaintiff's place of employment because that is where I was at the time. At first, Defendants' investigation was at the residence and Plaintiff's rental room, which was somewhat private. Then, Defendants' continued, with gross reckless misconduct and without evidence, of their investigation right after the residential residence of Plaintiff's place to the public place of employment (medical facility) across the city and

notifying my employer. Further, Defendants' continued Plaintiff's investigation publicly at employer's open public parking lot with a patrol vehicle blocking Plaintiff's personal vehicle in detention, for all the community to see. No official booking arrest resulted, nevertheless, the unlawful detention. They artfully damaged Plaintiff Doe's employment at said employer by their defamatory information of investigation of computer child porn without valid particular probable cause. Defendants' damaging effected Doe's ability to earn a living by way of depriving of liberty and property without due process of law in violation of the Fifth Amendment to the U.S. Constitution. Defendants' have a responsibility to uphold the U.S. Constitution and the laws of the U.S.

4. Defendants' again, continued in their campaign by contacting and notifying Plaintiff's landlord, Jose Garcia, at 212 18th St. N.W. Minot, ND, to inform him of the request to show a search warrant. When Plaintiff returned to the above referenced residence at the end of the day, Landlord Garcia was contacted and conveyed that the police are looking for the download of child porn and do not what the request for the search warrant was for. But to leave after the end of the month, because he (Garcia) does not want to rent the room to Plaintiff. Defendants' caused a wrongful eviction of Plaintiff causing to be homeless. Doe suffered damage in North Dakota to his reputation by defamation, emotional well-being, and his relations with employer which resulted in termination and wrongful eviction, from Defendants' outrageous investigation, violating privacy, and departed from standard procedure of law enforcement and policies.

5. Defendant Federal Special Agent Jesse Smith, North Dakota Bureau of Criminal Investigation, was at all relevant times concerning offending actions described in this Complaint, the Special Agent that applied for the General Search Warrant for the

investigation, acting under color of law. This Defendant is sued in his official and individual capacity for damages, injunctive and declaratory relief.

6. Unknown Federal Agents, Immigration and Customs Enforcement (ICE), was at all times material to the allegations in this complaint, acting in their capacities as law enforcement officers by the Federal Agency in North Dakota acting under color of law. Defendants are sued in their official and individual capacity for damages, injunctive and declaratory relief.

## FACTS

7. On May 6, 2014, Plaintiff interrupted by police at his employment of the nursing home facility in Minot, ND.

8. On May 6, 2014, Plaintiff was interrupted from work and told by managers at the nursing facility to arrive to a conference room. At the conference, Plaintiff was informed to go to a conference room and Minot Officers and Special Agent detectives were awaiting to speak and question. This notified Plaintiff's employer at the nursing home of the criminal investigation ensuing and placing Plaintiff in a bad light.

9. Detective Goodman informed this Plaintiff Doe that an investigation for computer child porn was being conducted. Next, Det. Goodman relayed that earlier the residence of Jose Garcia, at 212 18th St. N.W. Minot, ND, which included Plaintiff's room rental was seized and searched. Further, Det. Goodman stated in continuing to search and seizure of Plaintiff's computer and property for criminal child porn. Plaintiff was detained at a point beyond any reasonable understanding of the immediate vicinity, that is the residence at 212 18th St. N.W. Minot.

10. Then, Det. Goodman stated that Plaintiff may request a search warrant for the search and seizure. Though, Defendant Goodman had no evidence or facts to directly link Plaintiff to computer child porn.

11. Therefrom, Plaintiff had trouble understanding the ramifications of circumstances. However, Plaintiff requested a search warrant for my computer. And denied to speak or communicate with the Detectives' Goodman and other officers. Goodman conveyed that he may be able to obtain a search warrant and return.

12. Plaintiff was returned to work very distracted. All the while, a uniformed Patrol Officer in a Minot patrol vehicle in the middle of the employer's parking lot, blocked and **detained** Plaintiff's personal vehicle. And a couple of hours later was contacted to return to the conference room and Det. Goodman and other officers presented Plaintiff with a search warrant. (Exhibit 1- Search Warrant for Plaintiff) Again, inflicting tortious interference with at will employment at Plaintiff's employment in nursing home with privacy violations and defamation. And, again, Plaintiff was detained beyond the immediate vicinity of the residence from the initial unreasonable general search warrant. The facially valid search warrant (Ex. 1) continued and commenced the Defendant Detectives intrusion to seize and search Plaintiff's and property and computer in the public plain view of employer's parking lot with onlookers. The facial search warrant lacked probable cause, evidence, and facts linking Plaintiff with computer child porn. There was no nexus to connect Plaintiff with downloading, no subscription, or dissemination of computer child porn by the facial warrant and/or false statements indicating thereof.

**The concept of probable cause -a familiar but fluid standard for a court to apply:**

**the courts confront them: 1) as to subscribers of child pornography sites, the amount of information needed in order to conclude that there is probable cause to search the subscriber's computer; and 2) as to distributors or recipients of child pornography, establishing the location of the computer used to distribute or receive the materials.**

**Without any indication that any of these individuals downloaded or uploaded or transmitted or received any images of child pornography, without any evidence that these individuals did anything more than simply subscribe, the Government argues that it had the right to enter their homes to conduct a search and seize their computers, computer files and equipment, scanners, and digital cameras. This cannot be what the Fourth Amendment contemplated.**

**Here, the intrusion is potentially enormous.**

13. Defendants' Thompson proceeded to search Plaintiff's vehicle, meanwhile Special Agent Jesse Smith (SA Smith) seized and searched the computer. After about approximately 20 minutes, SA Smith informed Det. Goodman that there were NO CHILD PORN on Plaintiff's computer. There was no charging arrest. Still, Plaintiff was detained without any links to crime porn. Defendants' continued to question, interrogate and harass Plaintiff about computer porn. Plaintiff did not want to be questioned and responded with no and no's. Defendants' discretionary function exceeded legal bounds and was grossly negligent by misconduct.

14. Finally, Defendants' released Plaintiff and had to clean and arrange the vehicle to be able to leave.

15. Plaintiff eventually arrived to his rental room residence at 212 18th St. N.W. Minot. Plaintiff's property was scattered all over the room and property was damaged from the illegal General Search Warrant conducted by Minot Police in the morning approximately at 9 AM. Luggage, bags, and locks broken and damaged from the separate room rental of a door with a **lock and key**. **This search and seizure was conducted prior to Plaintiff's request for a specific search warrant and search and seizure at Plaintiff's employer.**

16. There upon, landlord renter Jose Garcia conveyed to Plaintiff that the police contacted and notified him that I did not want to be searched and Garcia stated, he did not know where the download of computer porn came from. Plaintiff was asserting his constitutionally protected rights.

17. Consequently, Garcia relayed in releasing Plaintiff from the lease of the room rental and not renewing it at the end of the month, to leave. Furthermore, Plaintiff was terminated from employment next day. In direct violation of the Privacy Act and regulations governing what law enforcement my publicly disclose regarding ongoing investigations. Here, the Defendants' intentionally, willfully, and negligently disclosed records kept by the agencies pertaining to Plaintiff Doe in a false implication. Thus, resulted in Plaintiff being homeless and looking for affordable housing without employment and looking for suitable employment for many weeks.

18. Through Defendants' intentional, gross and reckless negligence, and misconduct acts resulting in defamation, tortious interference of at-will employment, harassment, inter alia, have violated Plaintiff Doe's clearly established constitutional rights.

19. Plaintiff rights as set forth above and other rights that will be proven at trial were violated by

Defendants' intentional, willful, and negligent of the unauthorized disclosures of records pertaining to Plaintiff had and having an adverse effect on Plaintiff. Plaintiff suffered grave general and special damages and economic and non-economic damages in employment, wrongful eviction, and caused extreme mental and emotional distress.

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF NORTH DAKOTA**
**NORTHWESTERN DIVISION**

JOSE DOE

Plaintiff(s),

v.

Minot Police Department,
Chief of Police Jason T. Olson;
Sgt. Dave Goodman,
in his individual and official capacities;
Detective Thompson,
Detective Jesse Smith

Defendant(s).

**CERTIFICATE OF SERVICE**

Case No .

I hereby certify that an exact copy of the following document(s) was served upon all attorneys of record or upon all parties, if not represented by an attorney, by placing a copy in the United States Mail, postage prepaid, and mailing to their last known address.

Document(s) sent:

Summons, Complaint, and IFP

Names & Addresses to which the document(s) was sent:

U.S. District Court
PO Box 1193
Bismarck ND 58502-1193

Dated: September 24, 2014

Jose Doe
Signature of Plaintiff